

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

UNITED STATES OF AMERICA

v.

TREMAYNE KEON BOWMAN

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CRIMINAL NO. 6:07CR87-2

**REPORT & RECOMMENDATION OF
UNITED STATES MAGISTRATE JUDGE**

On April 8, 2013, the Court conducted a hearing to consider the government's petition to revoke the supervised release of Defendant Tremayne Keon Bowman. The government was represented by Jim Noble, Assistant United States Attorney for the Eastern District of Texas, and Defendant was represented by Wayne Dickey.

Defendant originally pled guilty to the offense of Conspiracy to Utter Counterfeit Securities (Count 1) and Possession of Counterfeited Securities of an Organization (Count 2), both of which are Class D felonies. Count 1 carried a statutory maximum imprisonment term of 5 years and Count 2 carried a maximum imprisonment term of 10 years. The United States Sentencing Guideline range, based on a total offense level of 8 and a criminal history category of V, was 15 to 21 months. On June 3, 2008, Chief District Judge Leonard Davis sentenced Defendant to 21 months imprisonment¹ followed by 3 years of supervised release subject to the standard conditions of release, plus special conditions to include restitution in the amount of \$966.90; financial disclosure; credit restrictions; gambling restrictions; and substance abuse testing and treatment. On April 5, 2010, Defendant completed the term of imprisonment and began his term of supervised release in the Northern District of Texas.

¹ The term consisted of 21 months on each of Counts 1 and 2, to be served concurrently. This sentence ran consecutively to the revoked federal sentence identified under Case No. 4:07CR99 in the Northern District of Texas, Dallas Division.

Under the terms of supervised release, Defendant was prohibited from purchasing, possessing, using, distributing, or administering any narcotic or other controlled substance, and further, was required to pay any financial penalty imposed by the judgment that remained unpaid at the commencement of the term of supervised release. In its petition, the government alleges that Defendant violated his term of supervised release when he (1) Defendant's urine specimens tested positive for marijuana on November 15, 2012 and March 18, 2012; and (2) failed to pay the remaining balance of \$781.90, as ordered by the judgment.

If the Court finds by a preponderance of the evidence that Defendant violated the conditions of supervised release by possessing and using marijuana on or about November 15, 2012 and March 18, 2012 or failed to pay his financial obligations as ordered by the Court, Defendant will have committed a Grade C violation.² U.S.S.G. § 7B1.1(a). The government represents that Fifth Circuit case law permits a court to find that illicit drug use constitutes possession. Upon a finding of a Grade C violation, the Court may revoke probation or supervised release or extend the term of supervised release and/or modify conditions of supervision. U.S.S.G. § 7B1.3(a)(2). Considering Defendant's criminal history category of V, the Guideline imprisonment range for a Grade C violation is 7 to 13 months. U.S.S.G. § 7B1.4(a).

At the hearing, Defendant pled true to the allegations set forth above. The government recommended 7 months imprisonment, with no supervised release to follow.

Pursuant to the Sentencing Reform Act of 1984, the Court **RECOMMENDS** that Defendant Tremayne Keon Bowman be committed to the custody of the Bureau of Prisons for a term of imprisonment of 7 months, with no supervised release to follow. The Court further **RECOMMENDS** that the place of confinement be FCI Seagoville, Texas.

² Such an offense is a violation of Texas Health and Safety Code § 481.121.

Defendant has waived his right to object to the findings of the Magistrate Judge in this matter so the Court will present this Report and Recommendation to District Judge Leonard Davis for adoption immediately upon issuance.

So ORDERED and SIGNED this 10th day of April, 2013.

A handwritten signature in black ink, appearing to read "John D. Love", is written over a horizontal line.

JOHN D. LOVE
UNITED STATES MAGISTRATE JUDGE